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U. S. Department of Agriculture—Forest Service

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RULES AND REGULATIONS

PERMITTING PROSPECTING, DEVELOPMENT
AND UTILIZATION OF THE MINERAL RE-
SOURCES OF LANDS ACQUIRED UNDER THE
ACT OF MARCH 1, 1911 (36 STAT. 961)

WASHINGTON : GOVERNMENT PRINTING OFFICE : 1917

REGULATION 1.**PRELIMINARY PROSPECTING—NO PERMIT NECESSARY.**

Preliminary prospecting may be carried on without permit, but no excavations, extensive in the judgment of the forest officer, may be made, structures erected, or exclusive rights acquired except under permit.

REGULATION 2.**PROSPECTING—PERMIT REQUIRED.**

For prospecting, except as authorized by Regulation 1, a permit is necessary and will be issued to any applicant qualified under these regulations, giving an exclusive right to explore a specified area, not in excess of 100 acres for a period not to exceed 12 months. Prospecting permits will give no right to mine and remove minerals in merchantable quantities and are nontransferable. A charge of \$5 will be made for a permit. Permits may be surrendered at any time upon compliance with the provisions of Regulation 10, but no refund will be made on account thereof. Persons qualified under these regulations shall not hold more than one prospecting permit at any one time. Permits may be renewed upon the expiration of the period for which issued, at the option of the Forest officer, and upon payment of the same charge as in the case of original permit.

REGULATION 3.**PREFERENCE RIGHTS UNDER PROSPECTING PERMITS.**

Upon the discovery of valuable mineral deposits in commercial quantities the prospecting permit may,

in the discretion of the Forest officer, be canceled, but the permittee shall for a period of 30 days after such cancellation have a preference right to a mining permit covering such mineral deposits, upon application.

REGULATION 4.

MINING PERMITS.

In the absence of preference rights acquired under Regulation 3, a mining permit will, upon application, be issued to any person qualified under these regulations who has discovered valuable mineral deposits in commercial quantities, giving him the exclusive right to mine, remove, and dispose of the valuable mineral deposits within the boundaries of the area designated therein for the period specified. No extralateral rights are authorized or conveyed by such permits. Permits for periods not in excess of 5 years will be issued by the Forest officer. The district forester will issue permits for periods in excess of 5 years but not exceeding 20 years. On the expiration of a permit the permittee shall have a preference right to a new permit under the rules and regulations then in effect.

REGULATION 5.

CHARGES FOR MINING PERMITS.

A reasonable annual rental, to be fixed by the Forester, of not less than \$1 per acre, and not less than \$2 for any permit, will be charged for the land included in a mining permit. In addition a royalty charge of from 2 to 8 per

cent, as determined by the Forester, will be payable at intervals specified therein on the value at the mine of all materials extracted, except that no royalty charge shall be made for mineral extracted in any three-months period up to the value of \$50.

REGULATION 6.

RECORDS AND INSPECTION OF OPERATIONS.

The permittee shall keep an accurate record of the amount and value of all material mined or removed from the area covered by the permit and shall, from time to time, as required by the Forest officer, report the same in writing, certified under oath. The permittee shall allow any duly authorized representative of the Forest Service to examine all books and records pertaining to operations under a permit and to make copies of, or extracts from, same; such information to be held confidential. All prospecting, mining, and related operations shall be subject to inspection by any duly authorized representative of the Forest Service, and such representatives may at all reasonable times enter into and upon the lands covered by any permit and examine same and all surface and underground improvements.

REGULATION 7.

CANCELLATION OF PERMITS.

The permittee shall exercise due diligence in the prosecution of prospecting and mining operations, and failure

so to do, or any violation of the rules and regulations applicable to lands acquired under the Weeks law, or of the terms and conditions of the permit, shall, in the discretion of the district forester, be ground for cancellation of such permit, and all rights thereunder,

REGULATION 8.

TIMBER CUTTING.

No prospecting or mining permit shall confer any right to cut or otherwise destroy any timber. Special permit must be procured in advance for the cutting or destruction of timber, either within or outside the permitted area, whether needed for mining operations or buildings, or necessary to be removed in clearing the land for prospecting or mining.

REGULATION 9.

SURFACE RIGHTS RESERVED.

Prospecting and mining permits give no right to use the area included therein for purposes other than those specified by their terms. The Forest officer may authorize persons other than the permittee to use so much of the surface of the area covered by a permit as is not occupied or needed in the conduct of prospecting or mining operations, where such use will not interfere with the operations of the permittee. Lands covered by any permit shall be subject to rights of way necessary, in the judgment of the Forest officer, for the use of Forest officers

and employees, National Forest permittees, and purchasers of National Forest products, such rights of way to be designated by joint action of the permittee and the Forest officer, and, in the event of their failure to agree, by the district forester.

REGULATION 10.

SAFEGUARDING EXCAVATIONS.

Upon abandonment, the permittee shall, except where otherwise directed by the Forest officer, substantially fence, fill in, or cover all surface openings or workings where persons or animals are likely to be injured by falling therein.

REGULATION 11.

QUALIFICATIONS OF PERMITTEES.

The following persons shall be considered as qualified applicants for permits:

(a) Any person above the age of 21 who is a citizen of the United States, or who has declared his intention of becoming a citizen.

(b) Any association of such persons.

(c) Any corporation organized under the laws of the United States, or of any State or Territory thereof, and authorized to do business within the State in which the land applied for is located: *Provided*, That a majority of the stock of such corporation shall at all times be owned and held by citizens of the United States.

REGULATION 12.**FOREST OFFICER DEFINED.**

The term "Forest officer" as used in these regulations shall mean the Forest supervisor of a National Forest or the officer in charge of a purchase area in which the land is situated.

REGULATION 13.**DAMAGE TO GOVERNMENT PROHIBITED.**

Except as may be specially authorized by permit, no roads, trails, telephone lines, or other improvements or property of the United States shall be damaged, destroyed, or in any manner interfered with in the conduct of prospecting or mining operations.

INSTRUCTIONS.**PROSPECTING PERMITS.**

Application shall be made in writing and must be filed with the Forest officer in charge of the Forest or Purchase Area affected. Priority will be determined by the order in which applications are received. No prescribed form is provided, but such applications should state the location of the lands desired.

The supervisor, when in his judgment such action is necessary, will cause a field examination and compass survey of the tract to be made. Whenever possible, the applicant should be present at the time of the examination.

The Forest officer's report should be in accordance with the outline on Form 964 in so far as that outline is applicable and the report should be accompanied by map and field notes of the survey. The report, map, and field notes should be submitted in duplicate, since the map, if desired, may be made a part of the permit.

If the supervisor has in his files sufficient data from which the prospecting permit may be prepared, a field examination may be dispensed with, but a memorandum report in accordance with Form 964 should be filed with the copy of the permit. In every case the area should be so described in the permit with reference to one or more known established survey corners, or to topographic features, as to make its exact location on the ground easily determined.

While the regulations authorize permits embracing 100 acres, and for a period of 12 months, it should be kept in mind that these are the maximum quantities. In no case should the period covered by the permit be longer than is necessary for the complete exploration of the area included, nor should the size of the area be larger than can be thoroughly explored within the maximum period of 12 months. Probably in the majority of cases the area will not exceed 40 acres. It is believed, however, that cases where a shorter period than the maximum of 12 months is desirable will be exceptional. Applications for renewal of a prospecting permit should be approved only when it is clear that the permittee was prevented by circum-

stances over which he had no control from completing the exploration of the tract. The permit should be canceled when it is clear that the exploration of the tract has been completed or that the permittee is not complying with the terms of the permit.

The discovery of workable mineral deposits on one portion of the tract before the whole area has been explored does not necessarily require the immediate cancellation of the prospecting permit. Ordinarily the permittee will want to continue his prospecting until he has covered the ground completely and is sure he has discovered everything worth discovering. There is ordinarily no reason why he should not have the privilege up to the end of the period set by the permit.

MINING PERMITS.

A mining permit may be issued without the previous issuance of a development permit in a case where the location of a valuable deposit is known.

Applications for mining permits shall be in writing and describe as accurately as possible the location of the land on which mining operations are to be conducted. A statement shall be made as to the development work that has been done and as to the character and approximate value at the mine of the minerals to be extracted. The statement shall include the results of any assays which have been made, and if the mine has been examined by a mining engineer, a copy of his report shall accompany the application.

The supervisor will make a survey of the tract applied for and prepare a plat showing its location. The instructions relating to the survey of term permit tracts should be followed in so far as they are applicable. The application and plat will be accompanied by a report which should discuss fully the effect of the proposed operation on Forest interests. If the permit is to be granted by the district forester, the report should contain recommendations as to the rental and royalty charges which should be made.

Under the United States statutes governing mining on the public domain, a claimant whose claim includes the apex of a vein may follow it indefinitely along its dip beyond the vertical planes which include the lines bounding the sides of the claim, but within the vertical planes indefinitely extended which include the lines bounding the ends of the claim.

Regulations under the act of August 11, 1916 (39 Stat. 466) allow no extralateral rights. Underground workings must not pass beyond vertical planes including all the lines bounding the tract described in the permit. Such boundaries are known among mining men as the "common law" boundaries.

In determining the boundary lines of the area to be covered by the permit, therefore, the Forest officer should so locate them as to include the estimated dip of the vein, so as to permit the miner to follow the vein down in the dip as far as it can be worked practicably. However, the area should be no larger than is reasonably necessary to

include the ore bodies and to provide for the working of the mine.

In fixing the annual rental, the accessibility of the tract and its value for other purposes should be taken into account. Where the ground covered by the permit is in an inaccessible spot and is of such a character and so located that it will not interfere in any way with other uses of the Forest, the minimum price of \$1 per acre should ordinarily be charged. If, however, it should happen that a mining permit must take in agricultural land having a rental value of, say, \$2 per acre for agricultural purposes and if the mining should prevent the agricultural use, the rental charge should be equivalent to what otherwise could be obtained under an agricultural permit. The same principle, of course, should govern where the mining permit interferes with other values.

In fixing the royalty charge the two principal factors to consider are:

1. The cost of getting the mineral out of the mine and on the market.
2. Its sale value.

The margin between the cost of mining plus the royalty charge and the sale value should be sufficient to allow the operator a fair return on his investment, taking into account the element of risk. In other words, the same general principles should govern in determining the royalty charge in a mining claim as those recognized in fixing stumpage values of timber.

FORMS.

Form 432.

UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE.

PROSPECTING PERMIT.

(Case designation.)

Permission is hereby granted to,
of, to use for a period of....
months, the following described lands:

.....
(Describe the lands to be occupied with reference to a Government

.....
survey, State grant road, stream, or well-known landmark.)
for the purpose of making excavations or doing other work
thereon necessary for determining whether there are
mineral deposits of such a quantity and value as would
justify opening a mine. This permit is granted subject
to the following conditions:

1. The permittee shall pay to the.....

Bank of (United States
depository), to be placed to the credit of the Treasurer of
the United States in consideration for this use, the sum of
Five Dollars (\$5).

2. The permittee shall comply with all regulations of the Secretary of Agriculture governing the National Forests, and shall conduct his operations in an orderly manner and in accordance with the laws of the State of

..... and of the United States, and dispose of all refuse as required by the Forest officer in charge.

3. The permittee shall take all reasonable precaution to prevent and suppress forest fires.

4. The permittee shall pay the United States for any damage to its property resulting from this use.

5. No National Forest timber may be cut or destroyed without first obtaining a permit from the Forest supervisor.

6. This permit shall terminate upon breach of any of the conditions herein.

7. Upon the abandonment, termination, or revocation of this permit, and in the absence of an agreement to the contrary, the permittee, if all the rental charges due the Government have been paid, may, within a reasonable period to be determined by the issuing officer, remove all structures which have been placed on the premises by him, except where the material was furnished *free* by the Forest Service; but upon failure to remove the structures within that period they shall become the property of the United States.

8. The permittee shall provide, whenever so requested by the Forest officer, a way across the lands covered by this permit for the free ingress or egress of Forest officers

and for users of National Forest land and purchasers of National Forest products.

9. The conditions of this permit are completely set forth, and none of its terms can be varied or modified except in writing by the Forest officer approving the permit or his successor or superior officer, and in accordance with the regulations of the Secretary of Agriculture. No other Forest officer has been or will be given authority for this purpose.

10. The right to mine or remove minerals in merchantable quantities is not granted in this permit. The permittee, however, shall have a preference right during the term of this permit to secure a "mining permit" covering any of the lands described in this permit.

.....
(Date.)

.....
(Signature of officer issuing permit.)

.....
(Title.)

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE.

MINING PERMIT.

(Act of August 11, 1916.)

(Case designation.)

Permission is hereby granted to
of for a period of years
from date hereof to extract, remove, and dispose of any
minerals found within or upon the following-described
lands:

.....
(Accurately describe by metes and bounds and proper ties the lands
.....
affected.)

This permit is granted subject to compliance, on the
part of the permittee, with the following conditions:

1. To pay in advance to the Bank
of (United States
depository), to be placed to the credit of the Treasurer
of the United States, an annual rental of
Dollars (\$.....); and in addition a royalty of
per cent based on the value at the mine of all minerals

extracted in excess of \$. in any months' period.

2. To furnish at the close of each months' period, beginning on the date of the issuance of this permit, a written statement certified under oath by the permittee or his properly authorized representative, showing the quantity and value of the minerals extracted during the period for which payment is made.

3. To comply with all regulations of the Secretary of Agriculture governing the National Forests and conduct his operations in an orderly manner and in accordance with the laws of the State of and of the United States.

4. To make provision to the satisfaction of the Forest officer in charge for preventing the obstruction, pollution, or deterioration of streams or springs by tailings, dumpage, or otherwise, or the escape of any harmful or deleterious material or substance from the mines or works.

5. To carry on all mining operations in a good and workmanlike manner, having due regard for the health and safety of miners and other employees.

6. To adopt all reasonable precautions to prevent forest fires and to assist the Forest officers in suppressing any fires that may occur.

7. To neither cut nor otherwise destroy any National Forest timber without first obtaining a permit from the Forest supervisor.

8. To provide a way across the land covered by this permit for the free ingress or egress of Forest officers and for users of National Forest lands and purchasers of National Forest products whenever so requested by the Forest officer in charge.

9. Upon the abandonment, termination, or revocation of this permit, and in the absence of an agreement to the contrary, the permittee, if all the rental charges due the Government have been paid, may, within a reasonable period, to be determined by the issuing officer, remove all structures which have been placed on the premises by him, except where the material was furnished free by the Forest Service; but upon failure to remove the structures within that period they shall become the property of the United States.

10. This permit may be transferred with the approval of the officer by whom it was given or his successor. It shall terminate upon breach of any of the conditions herein.

11. Mining under this permit shall begin within months and shall be prosecuted diligently. Except with the consent of the Forest supervisor in writing, operations shall not cease for longer periods than months.

.....
(Date.)

.....
(Signature of officer issuing permit.)

.....
(Title.)



